

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division**

ALVIN JONES, JR., #311925,

Petitioner,

v.

ACTION NO. 4:06cv85

GENE M. JOHNSON,
Director of the Virginia Department of Corrections,

Respondent.

FINAL ORDER

The Court has received and filed a petition for writ of habeas corpus submitted pursuant to 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's convictions on March 27, 2002, in the Hampton Circuit Court for malicious wounding and use of a firearm in the commission of a felony, as a result of which he was sentenced to serve twenty-three years and two months in the Virginia penal system.

The petition was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. Report of the Magistrate Judge was filed on March 30, 2007, recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the United States Magistrate Judge's Report and Recommendation and the time for filing same has expired.

The Court does hereby accept the findings and recommendations set forth in the report of the United States Magistrate Judge filed March 30, 2007, and it is therefore ORDERED that the

petition be DENIED and DISMISSED and that judgment be entered in favor of the respondent. The petition is DENIED because all of the grounds alleged were previously adjudicated by the Virginia Supreme Court on the merits and based on the holding in Strickland and none of the statutory exceptions apply that would allow this Court to review the claims on the merits.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment.

Petitioner has failed to demonstrate “a substantial showing of the denial of a constitutional right,” therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to the petitioner and to counsel of record for the respondent.

/s/ Jerome B. Friedman
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

April 23, 2007